

HOUSE BILL NO. 4940

September 11, 2025, Introduced by Reps. Pohutsky, Breen, Price, Wegela, Arbit, Glanville, Skaggs, Mentzer, Rogers and Rheingans and referred to Committee on Natural Resources and Tourism.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 21502, 21503, 21506a, 21506b, 21510, 21510a, 21510d, 21515, 21516, 21518, 21519, 21519a, 21521, 21524, and 21548 (MCL 324.21502, 324.21503, 324.21506a, 324.21506b, 324.21510, 324.21510a, 324.21510d, 324.21515, 324.21516, 324.21518, 324.21519, 324.21519a, 324.21521, 324.21524, and 324.21548), sections 21502, 21503, 21510, 21510a, 21515, 21516, and 21521 as amended by 2016 PA 380, sections 21506a and 21510d as amended and section 21519a as added by 2017 PA 134, and section 21506b as added and sections

21518, 21519, 21524, and 21548 as amended by 2014 PA 416; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 21502. As used in this part:

(a) "Administrator" means the administrator of the authority as provided for in section 21525.

(b) "Affiliate" means a person that directly, or indirectly through 1 or more intermediaries, controls the person specified.

(c) "Approved claim" means a claim that is approved ~~pursuant to~~**under** section 21510.

(d) "Authority" means the underground storage tank authority created in section 21523.

(e) "Board of directors" or "board" means the board of directors of the authority.

(f) "Bond proceeds account" means the account within the fund to which proceeds of bonds or notes issued under this part have been credited.

(g) "Bonds or notes" means the bonds, notes, commercial paper, other obligations of indebtedness, or any combination of these, issued by the finance authority ~~pursuant to~~**in accordance with** this part.

(h) "Bulk transfer" means a transfer of refined petroleum or a refined petroleum product from, or purchase for resale by, a refiner, pipeline terminal operator, supplier, or marine terminal operator to or from another refiner, pipeline terminal operator, supplier, or marine terminal operator through pipeline tender or marine delivery, including pipeline movements of refined petroleum or a refined petroleum product from 1 or more marine vessel movements of refined petroleum or a refined petroleum product.

1 Refined petroleum or a refined petroleum product in a refinery,
 2 pipeline, terminal, or marine vessel transporting refined petroleum
 3 or a refined petroleum product to a refinery or terminal is in the
 4 bulk transfer terminal system. Notwithstanding anything to the
 5 contrary in this subdivision, refined petroleum or a refined
 6 petroleum product transferred or purchased for resale by a refiner,
 7 pipeline terminal operator, supplier, or marine terminal operator
 8 must be delivered to or otherwise remain within the bulk transfer
 9 terminal system ~~prior to~~ **before** removal across the rack in order to
 10 constitute a bulk transfer.

11 (i) "Bulk transfer terminal system" means the refined
 12 petroleum or refined petroleum product distribution system
 13 consisting of refineries, pipelines, marine vessels, and terminals
 14 and includes refined petroleum or refined petroleum product storage
 15 tanks and refined petroleum or refined petroleum product storage
 16 facilities that are part of a refinery, boat terminal transfer, or
 17 terminal owned, operated, or controlled by a refiner, marine
 18 terminal operator, or pipeline terminal operator.

19 (j) "Claim" means the submission by the owner or operator or
 20 ~~his~~ **the owner's** or ~~her~~ **operator's** representative of documentation
 21 on an application requesting payment by the authority. A claim
 22 ~~shall~~ **must** include, at a minimum, a completed and signed claim form
 23 and the name, address, and telephone number of the owner or
 24 operator.

25 (k) "Claimant" means a person to whom an approved claim is
 26 assigned or transferred.

27 (l) ~~(k)~~ **"Claim** limit" means \$1,000,000.00 per ~~release.~~
 28 ~~Two or more claims arising out of the same, interrelated,~~
 29 ~~associated, repeated, or continuous releases or a series of related~~

1 ~~releases shall be subject to 1 claims limit. Any claim that takes~~
 2 ~~place over 2 or more claim periods shall be subject to 1 claims~~
 3 ~~limit.~~ **claim, minus the appropriate deductible amount under section**
 4 **21510a.**

5 **(m)** ~~(l)~~ "Claim period" means a 1-year period ~~commencing on~~
 6 **beginning** October 1 ~~of~~ each year and ending ~~on~~ September 30 the
 7 following year.

8 **(n)** ~~(m)~~ "Claim period aggregate limit" means ~~the following~~
 9 ~~aggregate claims limit for all releases discovered during~~
 10 **\$2,000,000.00 for a claimant or a claimant's affiliate for all**
 11 **claims approved for** a claim period. ÷

12 ~~(i) For owners, operators, and affiliates of 1 to 100 refined~~
 13 ~~petroleum underground storage tanks, \$1,000,000.00.~~

14 ~~(ii) For owners, operators, and affiliates of more than 100~~
 15 ~~refined petroleum underground storage tanks, \$2,000,000.00.~~

16 **(o) "Closure" means department-approved closure of a release**
 17 **covered by an approved claim. Closure includes approval of a**
 18 **closure report with conditions after the conditions are met.**

19 **(p) "Confirmed release" means a release of refined petroleum**
 20 **that is reported to the department of licensing and regulatory**
 21 **affairs on a form created by the department of licensing and**
 22 **regulatory affairs and designated on the form as a confirmed**
 23 **release.**

24 **(q)** ~~(n)~~ "Controls" means the possession or the contingent or
 25 noncontingent right to acquire possession, direct or indirect, of
 26 the power to direct or cause the direction of the management and
 27 policies of a person, whether through the ownership of voting
 28 securities or interests, by contract, other than a commercial
 29 contract for goods or nonmanagement services, by pledge of

1 securities, or otherwise, unless the power is the result of an
 2 official position with or corporate office held by the person.

3 **(r)** ~~(e)~~—"Corrective action" means that term as ~~it is~~ defined
 4 in section 21302.

5 **(s)** ~~(p)~~—"Deductible amount" means the amount of corrective
 6 action costs or indemnification costs that are required to be paid
 7 by ~~an owner or operator~~ **a claimant** as provided in section 21510a.

8 **(t)** ~~(q)~~—"Department" means the department of ~~environmental~~
 9 ~~quality~~ **environment, Great Lakes, and energy**.

10 **(u)** ~~(r)~~—"Eligible person" means an owner or operator who meets
 11 the eligibility requirements under this part to submit a claim.

12 **(v)** ~~(s)~~—"Excluded liquid" means that term as defined in 26 CFR
 13 48.4081-1.

14 **(w)** **"Federally recognized tribe" means a Native American**
 15 **tribal entity that is recognized as having a government-to-**
 16 **government relationship with the United States, that has the**
 17 **responsibilities, powers, limitations, and obligations attached to**
 18 **that designation, and that is eligible for funding and services**
 19 **from the federal government.**

20 **(x)** ~~(t)~~—"Finance authority" means the Michigan finance
 21 authority created by Executive Reorganization Order No. 2010-2, MCL
 22 12.194.

23 **(y)** ~~(u)~~—"Financial responsibility requirements" means the
 24 financial responsibility for taking corrective action and for
 25 compensating third parties for bodily injury and property damage
 26 caused by a release from a refined petroleum underground storage
 27 tank system that the owner or operator of a refined petroleum
 28 underground storage tank system must demonstrate under part 211 and
 29 the rules promulgated under that part.

(z) ~~(v)~~ "Fund" means the underground storage tank cleanup fund created in section 21506b and includes the bond proceeds account established within the fund.

(aa) ~~(w)~~ "Indemnification" means indemnification of ~~an owner or operator~~ **a claimant** for a legally enforceable judgment entered against the ~~owner or operator~~ **claimant** by a third party, or a legally enforceable settlement entered between the ~~owner or operator~~ **claimant** and a third party, compensating that third party for bodily injury or property damage, or both, caused by an accidental release. ~~as~~ **As used in this subdivision, "accidental release", "bodily injury", and "property damage" mean** those terms ~~are~~ **as** defined in R 29.2163 of the Michigan Administrative Code.

(bb) ~~(x)~~ "Location" means a parcel of property where refined petroleum underground storage tank systems are registered ~~pursuant to~~ **in accordance with** part 211.

(cc) ~~(y)~~ "Marine terminal operator" means a person that stores refined petroleum or a refined petroleum product at a boat terminal transfer.

(dd) ~~(z)~~ "Operator" means that term as ~~it is~~ defined in section 21303 or a person to whom an approved claim has been assigned or transferred.

(ee) ~~(aa)~~ "Owner" means that term as ~~it is~~ defined in section 21303.

(ff) ~~(bb)~~ "Oxygenate" means an organic compound ~~containing~~ **that contains** oxygen and ~~having~~ **has** properties as a fuel that are compatible with petroleum, including, but not limited to, ethanol, methanol, or methyl tertiary butyl ether (MTBE).

Sec. 21503. As used in this part:

(a) "Person" means an individual, partnership, corporation,

association, governmental entity, or other legal entity.

(b) "Pipeline terminal operator" means a person that receives and stores refined petroleum or a refined petroleum product in tanks and other equipment used in receiving and storing refined petroleum or a refined petroleum product from interstate and intrastate pipelines, pending wholesale bulk reshipment.

~~(c) "Qualifying expenditures" means an expenditure for a specific activity that does not exceed the allowable payment for that activity as detailed on the schedule of costs.~~

(c) ~~(d)~~ "Rack" means a mechanism for delivering refined petroleum or a refined petroleum product from a refiner, a pipeline terminal operator, or a marine terminal operator into a railroad tank car, a transport truck, a tank wagon, or the fuel supply tank of a marine vessel.

(d) ~~(e)~~ "Refined petroleum" means aviation gasoline, middle distillates, jet fuel, kerosene, gasoline, residual oils, and any oxygenates that have been blended with any of these. Refined petroleum includes refined petroleum products and transmix. Refined petroleum does not include excluded liquids.

(e) ~~(f)~~ "Refined petroleum fund" means the refined petroleum fund established under section 21506a.

(f) ~~(g)~~ "Refined petroleum underground storage tank" means an underground storage tank system used for the storage of refined petroleum.

(g) ~~(h)~~ "Refiner" means a person that meets both of the following:

(i) Manufactures or produces refined petroleum or a refined petroleum product at a refinery.

(ii) Is a taxable fuel registrant that is a refiner for

1 purposes of 26 CFR 48.4081-1.

2 **(h)** ~~(i)~~ "Refinery" means a facility used by a refiner to
 3 produce refined petroleum or a refined petroleum product from crude
 4 oil, unfinished oils, natural gas liquids, or other hydrocarbons by
 5 any process involving substantially more than the blending of
 6 refined petroleum and from which refined petroleum or a refined
 7 petroleum product may be removed by pipeline or marine vessel or at
 8 a rack.

9 **(i)** ~~(j)~~ "Regulated financial institution" means a state or
 10 nationally chartered bank, savings and loan association or savings
 11 bank, credit union, or other state or federally chartered lending
 12 institution or a regulated affiliate or regulated subsidiary of any
 13 of these entities.

14 **(j)** ~~(k)~~ "Regulatory fee" means the environmental protection
 15 regulatory fee imposed under section 21508.

16 **(k)** ~~(l)~~ "Release" means that term as ~~it is~~ defined in section
 17 21303.

18 **(l)** ~~(m)~~ "Removal" or "removed" means a physical transfer other
 19 than by evaporation, loss, or destruction of refined petroleum or a
 20 refined petroleum product from a refiner, pipeline terminal
 21 operator, or marine terminal operator.

22 **(m)** ~~(n)~~ "Schedule of costs" means the list of allowable
 23 reimbursement amounts that may be paid on a claim, as established
 24 in section 21510b.

25 **(n)** ~~(o)~~ "Site" means that term as ~~it is~~ defined in section
 26 21303.

27 **(o)** ~~(p)~~ "Supplier" means a supplier or permissive supplier
 28 licensed under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to
 29 207.1170.

1 **(p)** ~~(q)~~ "Tank wagon" means a straight truck having 1 or more
 2 compartments other than the fuel supply tank designed or used to
 3 carry fuel.

4 **(q)** ~~(r)~~ "Terminal" means a refined petroleum or refined
 5 petroleum products storage and distribution facility that meets all
 6 of the following requirements:

7 (i) Is registered as a qualified terminal by the ~~internal~~
 8 ~~revenue service.~~ **Internal Revenue Service.**

9 (ii) Is supplied by a pipeline or a marine vessel.

10 (iii) Has a rack from which refined petroleum or refined
 11 petroleum products may be removed.

12 **(r)** ~~(s)~~ "Transmix" means the mixed product that results from
 13 the buffer or interface of 2 different products in a pipeline
 14 shipment, or a mixture of 2 different products within a refinery or
 15 terminal that results in an off-grade mixture.

16 **(s)** ~~(t)~~ "Transport truck" means a semitrailer combination rig
 17 designed or used for the purpose of transporting refined petroleum
 18 or a refined petroleum product over the public roads or highways.

19 **(t)** ~~(u)~~ "Two-party exchange" means a transaction, including a
 20 book transfer, in which refined petroleum or a refined petroleum
 21 product is transferred from 1 supplier to another supplier and to
 22 which all of the following apply:

23 (i) The transaction includes a transfer of refined petroleum or
 24 a refined petroleum product from the person that holds the original
 25 inventory position for the refined petroleum or refined petroleum
 26 product in storage tanks as reflected in the records of the
 27 refiner, pipeline terminal operator, or marine terminal operator.

28 (ii) The exchange transaction is completed before removal
 29 across the rack by the receiving supplier.

(iii) The refiner, pipeline terminal operator, or marine terminal operator in its books and records treats the receiving exchange party as the supplier that removes the refined petroleum or refined petroleum product across a rack for purposes of reporting the transaction to the department under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170.

(u) ~~(v)~~—"Underground storage tank system" means that term as ~~it is~~ defined in section 21303.

(v) ~~(w)~~—"Work invoice" means a list of goods or services for costs of corrective action related to a claim, including a statement of the amount due.

Sec. 21506a. (1) The refined petroleum fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the refined petroleum fund. The state treasurer shall direct the investment of the refined petroleum fund ~~. The state treasurer shall~~ **and** credit to the refined petroleum fund interest and earnings from refined petroleum fund investments.

(3) Money in the refined petroleum fund at the close of the fiscal year remains in the refined petroleum fund and does not lapse to the general fund.

(4) Money from the refined petroleum fund ~~shall~~ **must** be expended, ~~upon~~ **on** appropriation, only for 1 or more of the following purposes:

(a) Corrective actions performed by the department ~~pursuant to~~ **in accordance with** section 21320.

(b) The legacy release program created in section 21519a.

(c) The reasonable costs of the department in administering the refined petroleum fund and implementing part 213.

(d) Not more than \$5,000,000.00 annually for petroleum product inspection programs under both of the following:

(i) The weights and measures act, 1964 PA 283, MCL 290.601 to 290.635.

(ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to 290.650d.

(e) Not more than \$3,000,000.00 annually for the bureau of fire services and office of the state fire marshal, storage tank ~~division,~~**section**, in the department of licensing and regulatory affairs.

(f) Reimbursement by the authority to local units of government and county road commissions for the costs of corrective action to manage, relocate, or dispose of any media contaminated by ~~regulated substances~~**refined petroleum** left in place within a public highway ~~pursuant to section 21310a~~ if all of the following occur:

(i) The local unit of government or county road commission has submitted to the authority a **public highway cleanup** claim for reimbursement on a form created by the authority.

(ii) The **public highway cleanup** claim for reimbursement is for reasonable and necessary eligible corrective action costs determined by the administrator ~~pursuant to~~**in accordance with** section 21515(2) to ~~(10)~~**(11)**.

(iii) The amount of reimbursement is not more than \$200,000.00 per claim.

(iv) **An institutional control addressing impacted media within the public highway in accordance with section 21310a must be in place before initiation of corrective actions and the submission of a public highway cleanup claim. The department may determine, in**

1 writing, that an institutional control is not necessary under this
2 subparagraph.

3 (v) The public highway cleanup claim is for corrective actions
4 completed after January 24, 2018.

5 (g) Not more than \$5,000,000.00 annually for the department to
6 provide grants and loans in accordance with part 196 to facilitate
7 brownfield redevelopment at part 213 properties. Money ~~shall~~**must**
8 not be provided under this subsection to fund the performance of
9 response activities at a part 213 property to address contamination
10 that is solely attributable to a release regulated under part 201.

11 (h) The permanent closure of an underground storage tank
12 system by the department if the underground storage tank system
13 meets the conditions that require permanent closure under R 29.2153
14 of the Michigan Administrative Code or the department determines it
15 is necessary to protect public health, safety, welfare, or the
16 environment.

17 Sec. 21506b. (1) The underground storage tank cleanup fund is
18 created within the state treasury. The state treasurer shall
19 establish a bond proceeds account within the fund and may establish
20 procedures for accounting for deposits and expenditures from the
21 bond proceeds account.

22 (2) The state treasurer may receive money or other assets from
23 any source for deposit into the fund. The state treasurer shall
24 direct the investment of the fund ~~. The state treasurer shall and~~
25 credit to the fund interest and earnings from fund investments.

26 (3) Money in the fund at the close of the fiscal year ~~shall~~
27 ~~remain~~**remains** in the fund and ~~shall~~**does** not lapse to the general
28 fund.

29 (4) The authority ~~shall be~~**is** the administrator of the fund

1 for auditing purposes.

2 (5) The authority and the finance authority shall expend money
3 from the fund, ~~upon~~**on** appropriation, only for the following
4 purposes:

5 (a) As a first priority, to pay principal and interest due on
6 bonds or notes issued by the finance authority ~~pursuant to in~~
7 **accordance with** this part, plus any amount necessary to maintain a
8 fully funded debt reserve or other reserve intended to secure the
9 principal and interest on the bonds or notes as may be required by
10 resolution, indenture, or other agreement of the finance authority.

11 (b) For the reasonable administrative cost of implementing
12 this part incurred by the department, the department of treasury,
13 the department of attorney general, and the finance authority.
14 Administrative costs include the actual and necessary expenses
15 incurred by the finance authority and its members in carrying out
16 the duties imposed by this part. Total administrative costs
17 expended under this subdivision ~~shall~~**must** not exceed ~~7%~~**12%** of the
18 fund's projected revenues in any year. Costs incurred by the
19 finance authority for the issuance of bonds or notes, which may
20 also be payable from the proceeds of the bonds or notes, ~~shall~~**are**
21 not ~~be~~ considered administrative costs.

22 (c) To pay approved claims as provided for in this part.

23 Sec. 21510. (1) An owner or operator is eligible to receive
24 money from the authority for corrective action or indemnification
25 due to a **confirmed** release from a refined petroleum underground
26 storage tank system only if all of the following requirements are
27 satisfied and the owner or operator otherwise complies with this
28 part:

29 (a) The release from which the corrective action or

1 indemnification arose was discovered and reported on or after
2 December 30, 2014.

3 (b) The refined petroleum underground storage tank from which
4 the release occurred was, at the time of discovery of the release ,
5 ~~and is presently,~~ in compliance with the registration and fee
6 requirements of part 211. **The refined petroleum underground storage**
7 **tank owned by a federally recognized tribe from which the release**
8 **occurred was, at the time of discovery of the release, in**
9 **compliance with federal registration and fee requirements.**

10 (c) The owner or operator reported the **confirmed** release
11 ~~within not later than 24 hours after its discovery as required by~~
12 ~~part 211 and the rules promulgated under that part.~~ **of the confirmed**
13 **release.**

14 (d) The owner or operator is not the United States government.

15 (e) The claim is not for a release from a refined petroleum
16 underground storage tank closed ~~prior to~~ **before** January 1, 1974, in
17 compliance with the fire prevention code, 1941 PA 207, MCL 29.1 to
18 29.33, and the rules promulgated under that act.

19 (f) The owner or operator was in compliance with the financial
20 responsibility requirements of part 211 and the rules promulgated
21 under that part at the time of the discovery of the release or
22 releases for which the claim is filed. **An underground storage tank**
23 **owned by a federally recognized tribe was in compliance with**
24 **federal financial responsibility requirements at the time of the**
25 **discovery of the release. The financial responsibility requirements**
26 **may be waived for previously unknown refined petroleum underground**
27 **storage tanks with written consent from the administrator.**

28 (g) The owner or operator is otherwise eligible to receive
29 money from the authority under this part.

1 ~~(h) The total amount of expenditures, including the deductible~~
2 ~~amount, does not exceed the claims limit or the claim period~~
3 ~~aggregate limit applicable to the claim.~~ **The claim is filed not**
4 **later than 24 months after the date the confirmed release is**
5 **reported.**

6 **(i) The claim is not for a release discovered after a refined**
7 **petroleum underground storage tank system from which the release**
8 **occurred was closed or considered permanently closed in compliance**
9 **with part 211 and the rules promulgated under that part.**

10 **(j) The owner or operator is otherwise in compliance with this**
11 **part.**

12 **(k) The administrator and the board may consider substantial**
13 **compliance when making eligibility determinations under this**
14 **subsection.**

15 ~~(2) The owner or operator may receive money from the authority~~
16 ~~for corrective action or indemnification due to a release that~~
17 ~~originates from an aboveground piping and dispensing portion of a~~
18 ~~refined petroleum underground storage tank system if all of the~~
19 ~~following requirements are satisfied:~~

20 ~~(a) The owner or operator is otherwise in compliance with this~~
21 ~~part and the rules promulgated under this part.~~

22 ~~(b) The release is sudden and immediate.~~

23 ~~(c) The release is of a quantity exceeding 25 gallons and is~~
24 ~~released into groundwater, surface water, or soils.~~

25 ~~(d) The owner or operator reported the release to the~~
26 ~~department within 24 hours after its discovery.~~

27 **(2) ~~(3)~~ Either the owner or the operator may receive money**
28 **from the authority under this part for an occurrence, but not both.**

29 **(3) ~~(4)~~ An owner or operator that is a public utility with**

1 more than 500,000 customers in this state is ineligible to receive
2 money from the authority for corrective action or indemnification
3 associated with a release from a refined petroleum underground
4 storage tank system used to supply refined petroleum for the
5 generation of steam electricity.

6 ~~(5) If an owner or operator has received money from the~~
7 ~~authority under this part for a release at a location, the owner~~
8 ~~and operator are not eligible to receive money from the authority~~
9 ~~for a subsequent release at the same location unless the owner or~~
10 ~~operator has done either or both of the following:~~

11 ~~(a) Discovered the subsequent release pursuant to corrective~~
12 ~~action being taken on a confirmed release and included this~~
13 ~~subsequent release as part of the corrective action for the~~
14 ~~confirmed release.~~

15 ~~(b) Upgraded, replaced, removed, or properly closed in place~~
16 ~~all refined petroleum underground storage tank systems at the~~
17 ~~location of the release so as to meet the requirements of part 211~~
18 ~~and the rules promulgated under that part.~~

19 ~~(6) An owner or operator that discovers a subsequent release~~
20 ~~at the same location as an initial release pursuant to subsection~~
21 ~~(5)(a) may receive money from the authority to perform corrective~~
22 ~~action on the subsequent release, if the owner or operator~~
23 ~~otherwise complies with the requirements of this part and the rules~~
24 ~~promulgated under this part. However, the subsequent release shall~~
25 ~~be considered as part of the claim for the initial release for~~
26 ~~purposes of determining the total amount of expenditures for~~
27 ~~corrective action and indemnification under subsection (1)(h).~~

28 ~~(7) An owner or operator that discovers a subsequent release~~
29 ~~at the same location as an initial release following compliance~~

~~with subsection (5) (b) may receive money from the authority to perform corrective action on the subsequent release, if there have been not more than 2 releases at the location, and if the owner or operator otherwise complies with the requirements of this part and the rules promulgated under this part. The subsequent release shall be considered a separate claim for purposes of determining the total amount of expenditures for corrective action and indemnification under subsection (1) (h).~~

(4) Except as otherwise provided in subsection (5), each eligible confirmed release must be covered by an additional claim and is subject to the appropriate deductible amount under section 21510a.

(5) A confirmed release must be covered by the most recently approved claim and is subject to that claim's claim limit and claim period aggregate limit if all of the following apply:

(a) The administrator determines, or the owner or operator demonstrates to the satisfaction of the administrator, that 2 or more confirmed releases are the result of a continuing or repeated exposure from an initial eligible confirmed release.

(b) The releases described under subdivision (a) are discovered during the same claim period.

(c) The releases described under subdivision (a) are not interrupted or replaced by a separate cause.

(6) Expenses related to corrective actions taken to address a confirmed release and that are part of an approved claim are eligible for reimbursement and are subject to that approved claim's claim limit and claim period aggregate limit. Expenses related to corrective actions taken to address a confirmed release that are not included as part of an approved claim are not eligible for

1 reimbursement.

2 (7) ~~(8)~~—An owner or operator that seeks to receive money from
3 the authority for corrective action **related to a release** shall
4 submit to the administrator the cleanup fund claim submittal form
5 created by the authority ~~containing~~**that contains** the information
6 required by the administrator to determine compliance with this
7 part. The administrator shall determine whether the claim complies
8 with this part and shall notify the owner or operator. The
9 administrator may consult with the department of licensing and
10 regulatory affairs to make the determination required in this
11 subsection.

12 (8) The authority shall not approve a claim for any of the
13 following:

14 (a) A release that was expected or intended by an owner or
15 operator or an employee of an owner or operator.

16 (b) A release caused by, based on, resulting from, or
17 attributable to the owner's or operator's intentional, knowing,
18 willful, or deliberate noncompliance with a statute, regulation,
19 ordinance, administrative complaint, notice of violation, notice
20 letter, executive order, or instruction of any governmental agency
21 or body.

22 (c) A release arising from the ownership, maintenance, use, or
23 entrustment to others of an aircraft, an automobile, rolling stock,
24 or a watercraft, including loading and unloading.

25 (d) A release arising from a consequence, whether direct or
26 indirect, of war, invasion, act of a foreign enemy, act of
27 terrorists, hostilities, whether war has been declared or not,
28 civil war, rebellion, revolution, insurrection, usurpation of
29 power, strike, riot, or civil commotion.

1 Sec. 21510a. (1) ~~An owner or operator~~ **A claimant** is
 2 responsible for a deductible amount as follows:

3 (a) ~~If the owner or operator or its affiliate owns or operates~~
 4 ~~fewer than 8 refined petroleum underground storage tanks, \$2,000.00~~
 5 ~~per~~ **for the first approved claim at the facility.**

6 (b) ~~If the owner or operator or its affiliate owns or operates~~
 7 ~~8 or more refined petroleum underground storage tanks, \$10,000.00~~
 8 ~~per~~ **for the second approved claim at the facility.**

9 (c) ~~The deductible amount under subdivisions (a) and (b) is~~
 10 ~~retroactive to all claims filed for releases discovered and~~
 11 ~~reported on or after December 30, 2014.~~

12 ~~(2) The deductible amount applies to each claim. However, 2 or~~
 13 ~~more claims arising out of the same, interrelated, associated,~~
 14 ~~repeated, or continuous releases or a series of related releases~~
 15 ~~shall be considered a single claim and are subject to 1 deductible~~
 16 ~~amount. Any claim that takes place over 2 or more claim periods is~~
 17 ~~subject to 1 deductible amount.~~

18 (c) **\$20,000.00 for a third or subsequent approved claim at the**
 19 **facility.**

20 (2) ~~(3) An owner or operator~~ **A claimant** that submits a work
 21 invoice under section 21515 is responsible for the deductible
 22 amount described in subsection (1). The expenses toward meeting the
 23 deductible amount ~~shall~~ **must** be documented and ~~shall~~ comply with
 24 the following:

25 (a) Expenses for items listed in the schedule of costs ~~shall~~
 26 **must** be at or below the allowable reimbursement amount listed in
 27 the schedule of costs.

28 (b) Expenses for items that are not listed in the schedule of
 29 costs ~~shall~~ **must** be reasonable and necessary considering conditions

1 at the site based ~~upon~~**on** a competitive bidding process established
 2 by the authority **or as otherwise determined necessary by the**
 3 **authority.**

4 Sec. 21510d. If an owner or operator intends to rely on the
 5 fund to meet financial responsibility requirements, the owner or
 6 operator shall submit to the authority a request for a
 7 determination that the owner or operator would be eligible for
 8 funding under this part in the event of a release from a refined
 9 petroleum underground storage tank system. ~~Upon~~**On** receipt of a
 10 request under this subsection, the authority shall make a
 11 determination and provide **written** notice of that determination ~~, in~~
 12 ~~writing,~~ to the owner or operator. The notice may contain
 13 conditions for maintenance of that eligibility. A determination
 14 under this section is based ~~upon~~**on** a demonstration of all of the
 15 following:

16 (a) The owner or operator is not ineligible for funding under
 17 section ~~21510(4) and (5).~~**21510.**

18 (b) The refined petroleum underground storage tank or tanks
 19 are presently in compliance with the registration and fee
 20 requirements of part 211. **The refined petroleum underground storage**
 21 **tank owned by a federally recognized tribe is under federal**
 22 **jurisdiction and is presently in compliance with federal financial**
 23 **responsibility requirements.**

24 (c) The owner or operator is not the United States government.

25 (d) The owner or operator has financial responsibility for the
 26 deductible amount. In order to demonstrate that the owner or
 27 operator has financial responsibility for the deductible amount
 28 under this section and section 21510(1)(f), the owner or operator
 29 may rely ~~upon any~~**on a** financial assurance mechanism listed in 40

1 CFR 280.95 to 280.107 or either of the following:

2 (i) A financial test of self-insurance. To pass the financial
3 test of self-insurance, the owner or operator must submit, on a
4 form developed by the authority, financial information certified as
5 accurate by the chief financial officer, or **an individual in a**
6 comparable position, that demonstrates a tangible net worth of at
7 least 3 times the deductible amount required under this part.

8 (ii) A deposit account in the amount of the deductible amount
9 required under this part in a financial institution, as **that term**
10 **is** defined in section 1202 of the banking code of 1999, 1999 PA
11 276, MCL 487.11202, if access to the deposit account is restricted
12 by a deposit account control agreement or similar restriction as
13 approved by the authority that requires the approval of the
14 administrator for a withdrawal from the deposit account.

15 Sec. 21515. (1) To receive money from the authority for
16 corrective action, ~~an owner or operator~~ **a claimant** that ~~has~~
17 ~~received~~ **receives** notice from the administrator that its claim has
18 been approved ~~pursuant to~~ **in accordance with** section 21510(8) ~~21510~~
19 shall follow the procedures outlined in this section and ~~shall~~
20 submit work invoices to the administrator ~~containing~~ **that contain**
21 **the** information required by the administrator relevant to
22 determining compliance with this part.

23 (2) ~~Within 45~~ **Not later than 60** days ~~of~~ **after** receipt of work
24 invoices submitted ~~pursuant to~~ **in accordance with** subsection (1)
25 using forms created by the authority, the administrator shall make
26 all of the following determinations:

27 (a) Whether the ~~owner or operator~~ **claimant** is eligible to
28 receive funding under this part.

29 (b) Whether the work performed or proposed to be performed is

1 consistent with part 213, and whether those activities are
 2 consistent with achieving site closure.

3 (c) Whether the ~~owner or operator~~ **claimant** has paid the
 4 deductible amount.

5 (d) Whether the corrective action performed is reasonable and
 6 necessary considering conditions at the site of the release.

7 (e) Whether the cost of performing the corrective action work
 8 is at or below the allowable reimbursement amount in the schedule
 9 of costs. ~~or, if~~ **If** the corrective action work is not ~~a~~ **an item**
 10 ~~listed item, whether the cost is~~ **in the schedule of costs, the**
 11 **corrective action work must be** reasonable and necessary ~~, and~~
 12 ~~whether the cost was~~ **considering conditions at the site**, based upon
 13 **on** a competitive bidding process established by the authority, **or**
 14 **otherwise determined to be reasonable and necessary by the**
 15 **authority.**

16 (3) The administrator may consult with the department and the
 17 department of licensing and regulatory affairs to make the
 18 determination required in subsection (2).

19 (4) If the administrator determines under subsection (2) that
 20 the work invoice is reasonable and necessary considering conditions
 21 at the site of the release and reasonable in terms of cost and the
 22 ~~owner or operator~~ **claimant** is eligible for funding under this part,
 23 the administrator shall approve the work invoice and notify the
 24 ~~owner or operator~~ **claimant** that submitted the work invoice of the
 25 approval. If the administrator determines that the work described
 26 on the work invoices submitted was not reasonable and necessary or
 27 the cost of the work is not reasonable, or that the ~~owner or~~
 28 ~~operator~~ **claimant** is not eligible for funding under this part, the
 29 administrator shall deny the work invoice or any portion of the

1 work invoice submitted and give notice of the denial to the ~~owner~~
 2 ~~or operator~~ **claimant** that submitted the work invoice.

3 (5) The ~~owner or operator~~ **claimant** may submit work invoices to
 4 the administrator that are related to a claim only after initial
 5 approval of the claim under section ~~21510(8)~~ **21510** and if the
 6 aggregate amount of work invoices in the submission is \$5,000.00 or
 7 more, **or 120 days or more have passed since the most recent work**
 8 **invoice was submitted.** This limitation does not apply to the final
 9 work invoice submission related to the approved claim. **A work**
 10 **invoice must be submitted within 365 days after the completion of**
 11 **the services for which reimbursement is being requested and must**
 12 **not be submitted within 14 days after the most recent work invoice**
 13 **was submitted.**

14 (6) If the administrator determines that a work invoice does
 15 not meet the requirements of subsection (2) or (5), the
 16 administrator shall deny reimbursement for the work invoice and
 17 give written notice of the denial to the ~~owner or operator who~~
 18 **claimant that** submitted the work invoice.

19 (7) The administrator shall approve a reimbursement for a work
 20 invoice that was submitted by ~~an owner or operator~~ **a claimant** for
 21 corrective action taken if the work invoice meets the requirements
 22 of this part for an approved claim and an approved work invoice.

23 (8) Except as provided in subsection (9) and section 21519,
 24 the authority shall make a joint payment to the ~~owner or operator~~
 25 **claimant** and the contractor that performed the work listed in the
 26 approved work invoices ~~within~~ **not later than** 45 days after the date
 27 of the administrator's approval under subsection (4) if sufficient
 28 money exists in the fund. Once payment has been made under this
 29 section, the authority is not liable for any claim on the basis of

1 that payment.

2 (9) The authority may withhold partial payment of money on
3 payment vouchers if there is reasonable cause to suspect that there
4 are violations of section 21548 or if necessary to ~~assure~~**ensure**
5 acceptable completion of the proposed work.

6 (10) The authority shall prepare and make available to ~~owners~~
7 ~~and operators~~**a claimant** standardized claim and work invoice forms.

8 (11) **The authority shall not approve reimbursement for costs**
9 **related to any of the following:**

10 (a) Costs arising from corrective actions that are not related
11 to the release for which the claim was approved.

12 (b) Punitive, exemplary, or multiplied damages, fines, taxes,
13 penalties, assessments, punitive or statutory assessments, or any
14 civil, administrative, or criminal fines, sanctions, or penalties.

15 (c) Legal or civil claims made by a claimant against another
16 owner or operator of the refined petroleum underground storage tank
17 system.

18 (d) Costs, charges, or expenses incurred by the claimant for
19 goods supplied by the claimant or services performed by the staff
20 or employees of the claimant, or its parent, subsidiary, or
21 affiliate, unless the costs, charges, or expenses are incurred with
22 the prior written approval of the administrator.

23 (e) Costs arising from the testing, repair, reconstruction, or
24 upgrading of a refined petroleum underground storage tank system,
25 or any other improvements and site enhancements or routine
26 maintenance on, within, or under a location.

27 (f) Costs arising from a closure in place or removing,
28 replacing, or recycling a refined petroleum underground storage
29 tank system, including removal and disposal of tank contents,

1 removal and replacement of pavement over the underground storage
2 tank system footprint, backfilling and compacting void space left
3 by the removal of an underground storage tank system, or a closure
4 in place.

5 (g) Costs incurred more than 1 calendar day before the
6 reporting of the confirmed release for which a claim is approved,
7 except for costs that are incurred to determine that a release
8 occurred.

9 (h) Costs related to the injury of an employee of the claimant
10 or its affiliate arising from and in the course of employment or
11 while performing duties related to the conduct of the business of
12 the claimant or its affiliate by a spouse, child, parent, brother,
13 or sister of that employee. This subdivision applies whether the
14 claimant may be liable as an employer or in any other capacity and
15 to any obligation to share damages with or repay someone else that
16 must pay damages because of the injury.

17 (i) Any obligation of the claimant under worker's
18 compensation, unemployment compensation, or disability benefits law
19 or a similar law.

20 (j) Any liability or claim for liability of others assumed by
21 the claimant under a contract or agreement, unless the claimant
22 would have been liable in the absence of the contract or agreement.

23 (k) Costs that have been or will be submitted to or that have
24 been paid in accordance with a third-party agreement or an
25 insurance policy.

26 (l) Costs arising from corrective actions that are not
27 necessary to obtain a restricted closure based on the land use at
28 the time and location the release was discovered. A restricted
29 closure can be achieved utilizing 1 or more institutional controls,

1 including, but not limited to, restrictive covenants, an
2 environmental license agreement with the department of
3 transportation, public highway as an alternative mechanism, or an
4 ordinance or state law or rule. Reimbursement of corrective actions
5 conducted in place of an institutional control may be considered
6 eligible if any of the following conditions are met and approved in
7 writing by the administrator before the corrective actions take
8 place:

9 (i) The corrective action will eliminate the need for
10 installation and long-term operation, maintenance, and monitoring
11 of mitigation measures that would otherwise be necessary to prevent
12 unacceptable exposures.

13 (ii) The corrective action will result in closure of the
14 release in a more expeditious manner and will provide a higher
15 level of confidence that closure of the release will remain
16 protective.

17 (iii) The corrective action is necessary to achieve closure of
18 off-site impact to properties that are not owned, operated, or
19 controlled by the claimant or the claimant's affiliate that is
20 liable under part 213.

21 (m) Costs incurred after the closure date of the release for
22 which the claim was filed, except for costs for monitoring well
23 abandonment, remediation system decommissioning, or related to
24 requirements recorded in an approved restrictive covenant or
25 institutional control, performed not later than 1 year after the
26 closure date. The administrator may grant an exception to the costs
27 or the time limit described under this subdivision.

28 (n) Litigation costs.

29 (o) Any form of interest, late payment penalties, or carrying

1 charges.

2 (p) Shipping or postage charges related to the delivery of
3 soil, liquid, or vapor samples and shipping charges for equipment
4 listed on the schedule of costs, unless the total of the equipment
5 charge and the shipping charge is less than the schedule of costs
6 equipment rate.

7 (q) Administrative costs, such as bookkeeping or form
8 preparation, including, but not limited to, eligibility requests,
9 claims, invoices, proposals, and change orders, and purchase orders
10 between claimant and consultant or claimant and contractor.

11 (r) Environmental liability insurance premiums.

12 (s) Replacement or repair of pavement, landscaping, fences,
13 utilities, or structures; property upgrades; or raze and rebuild
14 activities, unless directly associated with eligible and necessary
15 corrective actions.

16 (t) Costs incurred due to lost income, property loss, or
17 reduced property values unless part of an indemnification request
18 approved under section 21518.

19 (u) Fines or penalties imposed by local, state, or federal
20 government agencies.

21 (v) Punitive or exemplary damages.

22 (w) Costs related to the excavation, transport, and disposal
23 of more than 1,500 tons of soil without prior written authorization
24 from the authority.

25 (x) Laboratory rates for rapid turnaround sample analysis that
26 exceed the maximum allowable rates on the schedule of costs, unless
27 preapproved by the administrator.

28 (y) Charges for equipment not used on the date of the charge.

29 (z) Costs incurred if a non-low bidder performs required

1 competitively bid services, unless preapproved by the
2 administrator.

3 (aa) Corrective action activities, labor, laboratory testing,
4 drilling, or other work that exceeds actual costs as demonstrated
5 by submitted invoices.

6 (bb) Potentially refundable costs to the claimant, including,
7 but not limited to, permit inspection fees and cash bonds, until
8 the cost is actually incurred.

9 (cc) Consultant markup of items listed on the schedule of
10 costs, not including subcontractor invoices and schedule-of-cost
11 items included on a subcontractor invoice.

12 Sec. 21516. (1) ~~An owner or operator~~ **A claimant** with a claim
13 approved ~~pursuant to~~ **in accordance with** section 21510 for which
14 corrective action is in progress ~~who~~ **that** sells or transfers to
15 **another person** the property that is the subject of the approved
16 claim ~~to another person~~ may assign or transfer the approved claim
17 to ~~that~~ **the** other person. The person to whom the assignment or
18 transfer is made is eligible to receive money from the authority.
19 ~~as an owner or operator for the release which is the subject of the~~
20 ~~approved claim.~~ Allowable, outstanding approved or paid work
21 invoices of the ~~owner or operator making~~ **claimant that makes** the
22 assignment or transfer may be counted toward the deductible amount
23 of the person to whom the assignment or transfer is made. **The**
24 **person to whom the assignment or transfer is made has a claim limit**
25 **equal to the balance of the claim limit initially assigned to the**
26 **claimant that made the assignment or transfer, and the claim period**
27 **aggregate limit includes only reimbursements made to the person to**
28 **whom the assignment or transfer is made.**

29 (2) ~~An owner or operator assigning or transferring an approved~~

~~claim pursuant to this section shall notify the administrator of the proposed assignment or transfer at least 10 days before the effective date of the assignment or transfer.~~ **A claim that has reached its claim limit or the original claim period aggregate limit may not be transferred under this section.**

Sec. 21518. (1) To receive money from the authority for indemnification, the ~~owner or operator~~ **claimant** shall submit to the administrator a request for indemnification ~~containing that~~ **contains** the information required by the administrator, including ~~a~~ **all of the following:**

(a) **A** copy of the judgment obtained by a third party from a court of law against the ~~owner or operator~~ **claimant** or the settlement entered into between the ~~owner or operator~~ **claimant** and the third party, ~~all as applicable.~~

(b) **All** documentation ~~supporting that supports~~ the reasonableness of and justification for the judgment or settlement. ~~, and work~~

(c) **Work** invoices ~~which that~~ conform to the requirements of this part.

(2) If the administrator determines that the ~~owner or operator~~ **claimant** is eligible for funding under this part, is eligible for the amount requested, has paid the deductible amount, and has not exceeded the ~~allowable amount of expenditure provided in section 21510(1)(i),~~ **claim period aggregate limit**, and that the work invoices are payable under this part, the administrator shall forward a copy of the request for indemnification along with all supporting documentation to the attorney general. The attorney general shall approve the request for indemnification if there is a legally enforceable judgment against, or settlement with, the ~~owner~~

1 ~~or operator~~ **claimant** that was caused by an accidental release and
 2 that is reasonable and consistent with the purposes of this part.
 3 The attorney general may raise as a defense to the request any
 4 rights or defenses that were or are available to the ~~owner or~~
 5 ~~operator~~ **claimant** and, in the case of a judgment, that were not
 6 heard and ruled ~~upon on~~ by the court. If a request for
 7 indemnification is approved by the attorney general, the authority
 8 shall pay the indemnification amount.

9 (3) ~~(2)~~ The administrator shall keep records of all approved
 10 requests for indemnification.

11 (4) ~~(3)~~ The authority shall make a payment to ~~an owner or~~
 12 ~~operator~~ **a claimant** for an approved indemnification request within
 13 30 days if sufficient money is available to make the payment.

14 Sec. 21519. (1) The authority shall make payments on ~~claims~~
 15 **work invoices** in the order in which they are received. However, if
 16 there is insufficient money available to make payments on all
 17 approved claims, the authority shall give notice to each ~~owner~~
 18 **claimant** that is eligible to submit a ~~claim~~ **work invoice** under this
 19 part advising the ~~owners~~ **claimant** of the financial situation and
 20 the authority shall prioritize payments based ~~upon on~~ the risks at
 21 the site to the public health, safety, or welfare or the
 22 environment. Payments on claims that are not funded ~~shall~~ **must** be
 23 paid if revenues subsequently become available.

24 (2) The authority and ~~the~~ **this** state are not liable for **the**
 25 **reimbursement of** work invoices or requests for indemnification if
 26 revenues of the authority are insufficient to meet these claims.

27 Sec. 21519a. (1) The department shall establish and the
 28 authority shall administer a legacy release program as provided in
 29 this section to reimburse eligible persons for costs of corrective

actions for certain historic releases from refined petroleum underground storage tank systems. An eligible person may be reimbursed for corrective action costs incurred if the eligible person demonstrates all of the following:

(a) The release from which the corrective action or indemnification arose was discovered and reported ~~prior to~~ **before** December 30, 2014.

(b) The release ~~upon~~ **on** which the request for reimbursement is based has not been closed ~~pursuant to~~ **in accordance with** part 213 ~~prior to~~ **before** December 30, 2014.

~~(c) Any refined petroleum underground storage tank systems that are operating at the location from which the release occurred are currently in compliance with the registration requirements of part 211.~~

(c) ~~(d)~~ The request for reimbursement does not include reimbursement for money that was reimbursed from any other source, including insurance policies.

(d) ~~(e)~~ A claim submitted to the legacy release program ~~shall~~ **must** not be approved by the authority for any of the prohibitions listed under section 21510e. **21510(8)**.

(e) ~~(f)~~ The request for reimbursement is for corrective action performed on or after December 30, 2014.

(2) An eligible person that seeks to be reimbursed under the legacy release program established under this section shall submit to the authority a request for reimbursement on a form provided by the authority ~~containing~~ **and provide** the documentation required by the authority.

(3) The authority shall approve a request for reimbursement under this section only as follows:

(a) The amount approved for reimbursement ~~shall be~~ **is** 50% of the aggregate indemnification and corrective action costs incurred, but not more than 50% of the reasonable and necessary eligible costs as determined by the administrator ~~pursuant to~~ **in accordance with** section 21515(2) to ~~(10)~~ **(11)**.

(b) The total amount approved for reimbursement ~~shall~~ **does** not exceed a total of \$50,000.00 for all releases from refined petroleum underground storage tank systems at a single location.

(c) An owner or operator may request a review of a denied claim or work invoice ~~per~~ **in accordance with** section 21521.

(4) To be considered for reimbursement, work invoices must be submitted to the administrator not later than 180 days after the effective date of the amendatory act that amended this subsection.

(5) ~~(4)~~ As used in this section, "eligible person" means the owner or operator of a refined petroleum underground storage tank system at the time of the reporting of the release.

Sec. 21521. (1) ~~If the administrator denies a claim, work invoice, request for indemnification, or request for an eligibility determination under section 21510(8), the~~ **The** owner or operator, ~~who submitted the claim, work invoice, request for indemnification, or request for an eligibility determination under section 21510(8)~~ **or claimant**, may, ~~within not later than 14 business days following the denial, request review by the board. after a determination is~~ **made by the administrator, request a review by the board.** However, if the administrator believes the dispute may be able to be resolved without the board's review, the administrator may contact the owner or operator, **or claimant**, regarding the issues in dispute and may negotiate a resolution of the dispute ~~prior to~~ **before** the board's review. The board shall conduct a review of the denial to

determine whether the claim, work invoice, or request for indemnification is payable under this part.

(2) A person ~~who~~**that** is denied approval by the board after review under subsection (1) may appeal the decision directly to the circuit court.

Sec. 21524. (1) The authority shall be governed by a board of directors consisting of the director of the department and 6 residents of ~~the~~**this** state, appointed by the governor with the advice and consent of the senate, as follows:

(a) An individual ~~representing~~**that represents** petroleum refiners.

(b) An individual ~~representing~~**that represents** independent petroleum marketers.

(c) An individual from a statewide motor fuel retail association.

(d) An individual ~~from a statewide business association that includes owners or operators of refined petroleum underground storage tanks.~~**that represents qualified underground storage tank consultants with considerable experience in the remediation of leaking refined petroleum underground storage tank systems.**

(e) An individual from a statewide environmental organization.

(f) A member of the general public.

(2) The 6 appointed members of the board **of directors** shall serve terms of 3 years. However, in making the initial appointments, the governor shall designate 2 appointed members to serve for 3 years, 2 appointed members to serve for 2 years, and 2 appointed members to serve for 1 year.

(3) ~~Upon~~**On** appointment to the board of directors under subsection (1), and ~~upon~~**on** the taking and filing of the

1 constitutional oath of office, a member of the board of directors
 2 shall enter office and exercise the duties of the office to which
 3 ~~he or she~~ **the member** is appointed.

4 (4) A vacancy on the board of directors ~~shall~~ **must** be filled
 5 in the same manner as the original appointment. A vacancy ~~shall~~
 6 **must** be filled for the balance of the unexpired term. A member of
 7 the board of directors shall hold office until a successor is
 8 appointed and qualified.

9 (5) Members of the board of directors and officers and
 10 employees of the authority are subject to 1968 PA 317, MCL 15.321
 11 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310, as applicable. A
 12 member of the board of directors or an officer, employee, or agent
 13 of the authority shall discharge the duties of ~~his or her~~ **the**
 14 position in a nonpartisan manner, with good faith, and with the
 15 degree of diligence, care, and skill that an ordinarily prudent
 16 person would exercise under similar circumstances in a like
 17 position. In discharging ~~his or her~~ duties, a member of the board
 18 of directors or an officer, employee, or agent of the authority,
 19 when acting in good faith, may rely ~~upon~~ **on** any of the following:

20 (a) The opinion of counsel for the authority.

21 (b) The report of an independent appraiser selected with
 22 reasonable care by the board of directors.

23 (c) Financial statements of the authority represented to the
 24 member of the board of directors, officer, employee, or agent to be
 25 correct by the officer of authority having charge of its books or
 26 account, or stated in a written report by the auditor general or a
 27 certified public accountant or the firm of the accountant to fairly
 28 reflect the financial condition of the authority.

29 (6) The board of directors shall organize and make its own

1 policies and procedures. The board of directors shall conduct all
 2 business at public meetings held in compliance with the open
 3 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
 4 the time, date, and place of each meeting ~~shall~~**must** be given in
 5 the manner required by **the open meetings act**, 1976 PA 267, MCL
 6 15.261 to 15.275. Four members of the board of directors constitute
 7 a quorum for the transaction of business. An action of the board of
 8 directors ~~shall~~**must** be by a majority of the votes cast. The
 9 director of the department may designate a representative from ~~his~~
 10 ~~or her~~**the** department to serve as a voting member of the board of
 11 directors for 1 or more meetings.

12 (7) The board of directors shall elect a chairperson from
 13 among its members and may elect any other officers the board of
 14 directors considers appropriate.

15 Sec. 21548. (1) A person ~~who~~**that** makes or submits or causes
 16 to be made or submitted either directly or indirectly ~~any~~**a**
 17 statement, report, affidavit, application, claim, bid, work
 18 invoice, or other request for payment or indemnification under this
 19 part ~~knowing~~**that knows** that the statement, report, application,
 20 claim, bid, work invoice, or other request for payment or
 21 indemnification is false or misleading, is guilty of a felony
 22 punishable by imprisonment for not more than 5 years or a fine of
 23 not more than \$50,000.00, or both. In addition to ~~any~~**a** penalty
 24 imposed under this subsection, a person convicted under this
 25 subsection shall pay restitution to the authority for the amount
 26 received in violation of this subsection.

27 (2) A person ~~who~~**that** makes or submits or causes to be made or
 28 submitted either directly or indirectly ~~any~~**a** statement, report,
 29 application, claim, bid, work invoice, or other request for payment

1 or indemnification under this part ~~knowing-that~~ **knows** that the
2 statement, report, affidavit, application, claim, bid, work
3 invoice, or other request for payment or indemnification is false,
4 misleading, or fraudulent, or ~~who-that~~ commits a fraudulent
5 practice, is subject to a civil fine of not more than \$50,000.00 or
6 twice the amount submitted, whichever is greater. In addition to
7 ~~any-a~~ civil fine imposed under this subsection, a person found
8 responsible under this subsection shall pay restitution to the
9 authority for the amount received in violation of this subsection.
10 The legislature intends that this subsection be given retroactive
11 application.

12 (3) As used in subsection (2), "fraudulent" or "fraudulent
13 practice" includes, but is not limited to, the following:

14 (a) Submitting a work invoice for the excavation, hauling,
15 disposal, or provision of soil, sand, or backfill for an amount
16 greater than the legal capacity of the carrying vehicle or greater
17 than was actually carried, excavated, disposed, or provided.

18 (b) Submitting paperwork for services or work provided that
19 was not in fact provided or that was not directly provided by the
20 individual indicated on the paperwork.

21 (c) Contaminating an otherwise clean resource or site with
22 contaminated soil or product from a contaminated resource or site.

23 (d) Returning any load of contaminated soil to its original
24 site for reasons other than remediation of the soil.

25 (e) Causing damage intentionally or as the result of gross
26 negligence to a refined petroleum underground storage tank system,
27 which damage results in a release at a site.

28 (f) Placing a refined petroleum underground storage tank
29 system at a contaminated site where no refined petroleum

1 underground storage tank system previously existed for purposes of
2 disguising the source of contamination or to obtain funding under
3 this part.

4 (g) Submitting a work invoice for the excavation of soil from
5 a site that was removed for reasons other than removal of the
6 refined petroleum underground storage tank system or remediation.

7 (h) Any intentional act or act of gross negligence that causes
8 or allows contamination to spread at a site.

9 (i) Registration of a nonexistent refined petroleum
10 underground storage tank system with the department.

11 (j) Loaning to ~~an owner or operator~~ **a claimant** the deductible
12 amount and then submitting or causing to be submitted inflated
13 claims or invoices designed to recoup the deductible amount.

14 (k) Confirming a release without simultaneously providing
15 notice to the owner or operator.

16 (l) Inflating bills or work invoices, or both, by adding
17 charges for work that was not performed.

18 (m) Submitting a false or misleading laboratory report.

19 (n) Submitting bills or work invoices, or both, for sampling,
20 testing, monitoring, or excavation that are not justified by the
21 site condition.

22 (o) Falsely characterizing the contents of a refined petroleum
23 underground storage tank system for purposes of obtaining funding
24 under this part.

25 (p) Submitting or causing to be submitted bills or work
26 invoices by or from a person ~~who~~ **that** did not directly provide the
27 service.

28 (q) Characterizing legal services as consulting services for
29 purposes of obtaining funding under this part.

1 (r) Misrepresenting or concealing the identity, credentials,
2 affiliation, or qualifications of principals or persons seeking,
3 either directly or indirectly, funding or approval for
4 participation under this part.

5 (s) Falsifying a signature on a claim application or a work
6 invoice.

7 (t) Failing to accurately disclose the actual amount and
8 carrier of unencumbered insurance coverage available for new
9 environmental impairment or professional liability claims.

10 (u) Any other act or omission of a false, fraudulent, or
11 misleading nature undertaken in order to obtain funding under this
12 part.

13 (4) The attorney general or county prosecutor may conduct an
14 investigation of an alleged violation of this section and bring an
15 action for a violation of this section.

16 (5) If the attorney general or county prosecutor has
17 reasonable cause to believe that a person has information or is in
18 possession, custody, or control of any document or records, however
19 stored or embodied, or tangible object which is relevant to an
20 investigation of a violation or attempted violation of this part or
21 a crime or attempted crime against the fund, the attorney general
22 or county prosecutor may, before bringing any action, make an ex
23 parte request to a magistrate for issuance of a subpoena requiring
24 that person to appear and be examined under oath or to produce the
25 document, records, or object for inspection and copying, or both.
26 Service may be accomplished by any means described in the Michigan
27 court rules. Requests made by the attorney general may be brought
28 in Ingham county.

29 (6) If a person objects to or otherwise fails to comply with a

1 subpoena served under subsection (5), an action may be brought in
2 district court to enforce the demand. Actions filed by the attorney
3 general may be brought in Ingham county.

4 (7) The attorney general or county prosecutor may apply to the
5 district court for an order granting immunity to any person ~~who~~
6 **that** refuses to provide or objects to providing information,
7 documents, records, or objects sought ~~pursuant to~~ **under** this
8 section. If the judge is satisfied that it is in the interest of
9 justice that immunity be granted, ~~he or she~~ **the judge** shall enter
10 an order granting immunity to the person and requiring the person
11 to appear and be examined under oath or to produce the document,
12 records, or object for inspection and copying, or both.

13 (8) A person ~~who~~ **that** fails to comply with a subpoena issued
14 ~~pursuant to~~ **under** subsection (5) or a requirement to appear and be
15 examined ~~pursuant to~~ **under** subsection (7) is subject to a civil
16 fine of not more than \$25,000.00 for each day of continued
17 noncompliance.

18 (9) In addition to any civil fines or criminal penalties
19 imposed under this part or the criminal laws of this state, the
20 person found responsible shall repay any money obtained directly or
21 indirectly under this part. Money owed ~~pursuant to~~ **under** this
22 section constitutes a claim and lien by the authority upon any real
23 or personal property owned either directly or indirectly by the
24 person. This lien ~~shall attach~~ **attaches** regardless of whether the
25 person is insolvent and may not be extinguished or avoided by
26 bankruptcy. The lien imposed by this section has the force and
27 effect of a first in time and right judgment lien.

28 (10) Subsection (1) does not preclude prosecutions under other
29 laws of ~~the~~ **this** state including, but not limited to, section 157a,

1 218, 248, 249, 280, or 422 of the Michigan penal code, 1931 PA 328,
2 MCL 750.157a, 750.218, 750.248, 750.249, 750.280, and 750.422.

3 (11) All civil fines collected ~~pursuant to~~**under** this section
4 ~~shall~~**must** be apportioned in the following manner:

5 (a) Fifty percent ~~shall~~**must** be deposited in the general fund
6 and ~~shall be~~ used by the department to fund fraud investigations
7 under this part.

8 (b) Twenty-five percent ~~shall~~**must** be paid to the office of
9 the county prosecutor or attorney general, whichever office brought
10 the action.

11 (c) Twenty-five percent ~~shall~~**must** be paid to a local police
12 department or sheriff's office, or a city or county health
13 department, if investigation by that office or department led to
14 the bringing of the action. If more than 1 office or department is
15 eligible for payment under this subsection, division of payment
16 ~~shall~~**must** be on an equal basis. If there is not a local office or
17 department that is entitled to payment under this subdivision, the
18 money ~~shall~~**must** be forwarded to the state treasurer for deposit
19 into the refined petroleum fund.

20 Enacting section 1. Section 21510c of the natural resources
21 and environmental protection act, 1994 PA 451, MCL 324.21510c, is
22 repealed.